REMARKS

Claims 9-44 were presented for examination and claims 9-44 were rejected. Thus, claims 9-44 are currently pending in this application, of which claims 9 and 27 are independent. Claims 10-26 depend on and incorporate all the patentable subject matter of independent claim 9. Claims 28-44 depend on and incorporate all the patentable subject matter of independent claim 27. Applicants submit that claims 9-44 are in condition for allowance.

The following comments address all stated grounds of rejection. Applicants respectfully traverse all rejections and urge the Examiner to pass the claims to allowance in view of the remarks set forth below.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

I.   Claims 27-44 Rejected Under 35 U.S.C. §112, Second Paragraph

Claims 27-44 are rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as their invention. The Examiner contends that the specification does not provide an adequate disclosure to show what is meant by the means plus function language of claim 27. The Examiner rejects claims 28-44 because they depend from rejected base claim 27. Applicants traverse this rejection. Applicants submit that the specification provides an adequate disclosure and that the requirements of 35 U.S.C. §112, second paragraph are satisfied.

If the corresponding structure, material or acts are described in the specification in specific terms and one skilled in the art could identify the structure, material or acts from that description, then the requirements of 35 U.S.C. §112, second and sixth paragraphs are satisfied. See *Atmel*, 198 F.3d at 1382, 53 USPQ2d 1231. Applicants submit that one skilled in the art can identify from the specification the structure or acts corresponding to the means-plus-for functionality of claim 27. Applicants direct the Examiner's attention to at least page 26, line 24

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to page 29, line 26 for description of structure corresponding to the claim limitations of claim 27.

Applicants also direct the Examiner's attention to at least page 19, line 26 to page 21, line 25 for

description of acts corresponding to the claim limitations of claim 27. In view of at least these

descriptions, one skilled in the art would recognize the structure or acts corresponding to the

functionality of the means-plus-function claims. With the description of the corresponding

structure or acts combined with claim 27, the disclosure satisfies the requirements of 35 U.S.C.

§112, second paragraph. As claim 27 complies with 35 U.S.C. §112, claims 28-44 that were

rejected because of their dependency to claim 27 also comply with 35 U.S.C. §112. Therefore,

Applicants request the Examiner to withdraw the rejection of claims 27-44 under 35 U.S.C. §112.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

II. Claims 9-13, 21, 24-31, 39 and 42-44 Rejected Under 35 U.S.C. §103

Claims 9-13, 21, 24-31, 39 and 42-44 are rejected under 35 U.S.C. §103 as unpatentable

over U.S. Patent No. 5,852,717 to Bhide ("Bhide") in view of RFC 2616, Fielding et al.

("Fielding"). Claims 9 and 27 are amended independent claims. Claims 10-13, 21 and 24-26

depend on and incorporate all the patentable subject matter of independent claim 1. Claims 30,

31, 39 and 42-44 depend on and incorporate all the patentable subject matter of independent

claim 27. Applicants respectfully traverse this rejection and submit that Bhide and Fielding,

alone or in combination, fails to teach or suggest each and every element in the claimed

invention.

A. Independent Claims 9 and 27 Patentably Distinguished over Batra and Fielding

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. Independent claims 9 and 27 are directed towards pooling a transport layer connection on a server. These claims recite that a interface unit determines from monitoring application layer data of network traffic received by the interface unit that a second client and the server are not transferring data for a second request via the second transport layer connection. These claims also recite that the interface unit determines from monitoring application layer data of network traffic received by the interface unit that the second client and the server are transferring data for the second request via the second transport layer connection. Bhide and Fielding, alone or in combination, fail to disclose, teach or suggest each and every element of independent claims 9 and 27.

Bhide in combination with Fielding does not teach or suggest determining whether or not a client and server are transferring data via a connection. The Examiner contends that Bhide determines if another client is transferring data with a server because Bhide determines if a connection is available. Applicants disagree. Bhide does not determine if data is being transferred via a connection. Instead, Bhide merely tracks the state of a connection based on the connection being opened, closed or assigned to a client requesting a connection to a server. In Bhide, a status of "open" indicates the connection was opened and available to assign to a client. A Bhide status of "in use" merely indicates the connection was assigned to a client for use with a server and is not available to assign to another client. This "in use" status does not indicate if and when the client and server are transferring data. That is, the connection is marked "in use" during the entire time the connection is assigned to the client. Whether or not the client and server are transferring data, the "in use" status does not change. Bhide does not recognize

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transitions between transferring data and not transferring data during the use of a connection between a client and server. Because Bhide is not concerned with sharing the same "in use" connection between multiple clients and a server, Bhide assigns and uses a separate connection for each client. One client in Bhide does not transfer data via the same connection marked as "in use" by another client. In fact, Bhide teaches that an "in use" connection is not available to service another client's request. Thus, Bhide fails to determine whether or not a client and server are transferring data via a connection.

The Examiner admits the Bhide does not disclose monitoring application network traffic to determine the availability of a connection and cites the HTTP RFC of Fielding for this purpose. The Examiner contends that the one skilled in the art would be motivated to modify Bhide with the chunk-sizing features of HTTP so to insure that all data is received by the client prior to closing the connection. Even if Bhide were to use these features of Fielding to insure all data is received prior to closing a connection, the combination still does not lead to the invention. In this Examiner suggested combination, Bhide would merely mark the status of the connection as "closed" after checking to make sure all the data was received. Bhide and Fielding in combination would not determine for an "in use" connection whether or not a client and server are transferring data for one request in order to determine if the same "in use" connection can be used for another request. Bhide teaches away from this combination by assigning the connection for use by a first client upon an open request from that client and any other requests from a different client would use a second opened connection instead of the previously assigned "in use" connection of the first client. Therefore, the combination of Bhide and Fielding fails to teach or suggest each and every feature of the claimed invention.

Because Bhide and Fielding, alone or in combination, fails to disclose, teach or suggest each and every feature of the claimed invention, Applicants submit independent claims 9 and 27 are patentable and in condition for allowance. Claims 10-13, 21 and 24-26 depend on and incorporate all the patentable subject matter of independent claim 9, and claims 30, 31, 39 and 42-44 depend on and incorporate all the patentable subject matter of independent claim 27. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 9, 10-13, 21, 24-26, 27, 30-31, 39 and 42-44 under 35 U.S.C. §103.

III. <u>Dependent Claims 14, 15, 16, 17, 18, 19, 22, 23, 32, 35, 40 and 41 Rejected Under 35 U.S.C. §103</u>

Claims 14, 22, 23, 32, 40 and 41 are rejected under 35 U.S.C. §103 as unpatentable over Bhide and Fielding in view of U.S. Patent No. 6,163,812 to Gopal et al. ("Gopal"). Claims 15 and 16 are rejected under 35 U.S.C. §103 as unpatentable over Bhide and Fielding. The Examiner rejected claims 16, 18, 19, 33, 34, 36 and 37 for the same reasons as claim 15. Claim 17 is rejected as unpatentable over Bhide in view of Applicants' specification. Claims 14-19, 22 and 23 depend on and incorporate all the patentable subject matter of amended independent claim 1. Claims 32, 35, 40 and 41 depend on and incorporate all the patentable subject matter of amended independent claim 27. Applicants traverse these rejections and submit that Bhide, Gopal and Fielding, alone or in combination, fail to teach or suggest each and every element of the claimed invention.

For the reasons discussed above in connection with the rejection of independent claims 9 and 27 under 35 U.S.C. §103, Applicants submit that independent claims 1 and 27 are patentable over Bhide and Fielding. As with Bhide and Fielding, Gopal does not teach or suggest

monitoring application layer data of network traffic received by the interface unit to determine whether or not a client and server are transferring data as in the claimed invention. Thus, Gopal, Fielding and Bhide, alone or in combination, fail to detract from the patentability of dependent claims 14, 15, 16, 17, 18, 19, 22, 23, 32, 35, 40 and 41. Accordingly, Applicants request the Examiner to withdraw the rejection of dependent claims 14, 15, 16, 17, 18, 19, 22, 23, 32, 35, 40 and 41 under 35 U.S.C. §103.

With respect to the rejection of claim 17, the Examiner relies on the teachings of the Applicants' specification to form a multiple reference obviousness rejection. The Examiner improperly uses the teachings of the Applicants' specification to attempt to bridge the factual deficiencies between the Bhide and Fielding references. However, the Applicants' specification is not available as prior art or its teachings to provide motivation to combine other references. For this reason in addition to the reasons provided above, the Applicants request the Examiner to withdraw the rejection of claim 17.

CONCLUSION

In view of the above arguments, Applicants contend that each of the Examiners rejections has been adequately addressed and all of the pending claims are in condition for allowance. Accordingly, Applicants respectfully request reconsideration, withdrawal of all grounds of rejection, and allowance of all of the pending claims.

Should the Examiner feel that a telephone conference with Applicants' attorney would expedite prosecution of this application, the Examiner is urged to contact the Applicants' attorney at the telephone number identified below.

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Respectfully submitted,

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Dated: <u>January 7, 2009</u>

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